IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 10109 of 2004

Between:

B. Krishna Murthy, S/o. Venkaiah, R/o. Plot No. 87/G, Road No. 3, West Kakatiya Nagar Colony, Neredmet, Secunderabad.

..... PETITIONER

AND

1 The General Manager, South Central Railway, Railnilayam, Secunderabad.
2 Dy. Chief Signal & Telcom Engineer (Project) D.R.M. Compound, Secunderabad Division, S.C. Railway, Secunderabad.
3 The Financial Manager, Secunderabad Divn, D.R.M. Compound, S.C. Railway, Secunderabad.
4 The F.A. & C.A.O., (Const), S.C. Railway, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue to a writ, order or direction more particularly one in the nature of Writ of Certiorari to quash the orders passed in O.A.No. 417/2003 dated 23-2-2004 after calling for the records from Central Administrative Tribunal, Hyderabad to the extent

of rejecting the claim for the interest on the delayed payment and consequently direct the Respondents to pay the interest @ 24% per annum on amounts of Rs. 1,99,139/- towards D.C.R.G. and Leave Salary of Rs. 1,20,690/- from 1-7-2002 to 31-3-2004 and also Rs. 1,86,468/- of commutation amount from 1-7-2002 to 31-3-2003 and Rs. 10,000/- towards costs.

Counsel for the Petitioner: MR.K.SIVA REDDY

Counsel for the Respondent No.1 to 4: MR. A. Krishnam Raju, Addl. S.C. for Central Government.

The Court made the following :

ORAL ORDER: (Per the Hon'ble Sri Justice Goda Raghuram)

The writ petition is filed against the order of the Central Administrative Tribunal, Hyderabad Bench dated 23-02-2004 in O.A.No.417 of 2003 assailing the order to the extent the Tribunal declined the claim of the petitioner for awarding interest on delayed payment of the petitioner's terminal benefits.

The petitioner having joined the Railway services as a Junior Clerk was eventually promoted to various intermediary categories and as Office Superintendent Grade-I in the year 1997 in which post he served till his superannuation on 30-06-2002. He thus retired after having putting in 37 years of service. By an order dated 03-05-2002 of the 2nd respondent herein, an Office Superintendent Gr.II was posted in the place of the petitioner, so as to enable the petitioner to hand over charge on or before 20-06-2002, preparatory to the petitioner's retirement. The petitioner handed over the charge. Thereafter he demitted office on superannuation on 30-06-2002. As he was denied sanction and release of the terminal benefits; of death-cum-retirement gratuity (for short 'DCRG'), leave salary and commutation of pension amount, he filed the O.A.No.417 of 2003.

The Railway administration-the respondents herein- urged number of grounds as to why the petitioner was not sanctioned and paid the terminal benefits.

The contentions on behalf of the respondents urged before the Tribunal, include that the petitioner had not validly handed over the charge, there were shortages in the stock of the stores which were handed over to his successor and other irregularities, on account of which the petitioner's terminal benefits could not be processed, was the contention of the respondents.

The Tribunal found no merit in any of the defences of the respondents and held that there were serious lapses by the respondents in not adhereing to their own instructions and rules which require that the process of settlement of dues should be initiated well in time enabling finalization two months prior to the date of retirement of an employee and the handing over of charge to the successor.

The contention of the petitioner that once the charge is taken over by his successor who was operating the receipt and issue of stores thereafter, his liability for the earlier period cannot be a factor for delaying his pension, also commended acceptance by the Tribunal. The Tribunal accordingly found that the respondents were grossly lethargic and negligent in processing the petitioner's claim for terminal benefits and directed that all withheld amounts be released in favour of the applicant within one month from the date of the order of the Tribunal.

Even before filing of the O.A, the commutation amount was released in favour of the petitioner by 31-03-2003 i.e., nine months after the date of his retirement. After the order of the Tribunal, the other two components viz., DCRG and Leave Salary benefits were paid to the petitioner in an amount of Rs.3,19,829/-, on 08-04-2004 about twenty six (26) months after his retirement. Insofar as the petitioner's claim for payment of interest (he claimed interest at the rate of 24% per annum with effect from 01-07-2002), the Tribunal held that it is not convinced that the delay in the settlement of dues was due to the lapse of the Officials of the Railway Administration. This conclusion of the Tribunal is inconsistent with its earlier conclusion that the delay in processing of the terminal benefits of the petitioner was solely on account of the violation of the extant rules by the Railway Administration. The Tribunal had also rejected all the defences of the respondents to sustain their action in withholding the petitioner's terminal benefits. The reason recorded by the Tribunal for rejecting the petitioner's claim for payment of interest for delayed payment of terminal benefits to the petitioner does not, therefore commend acceptance by this Court. This conclusion is erroneous and the underlying logic strained.

Insofar as the liability for payment of interest on delayed payment of gratuity is concerned, the Railway Administration itself and in particular the South Central Railway had issued instructions bearing reference No.P (R) 626/III, dated 18-12-2002 setting out the provisions of Rule 87 of the Railway Services (Pension) Rules, 1993 (for short 'the Rules, 1993'). The Rules 1993 require that "if the payment of gratuity has been authorized after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid".

Insofar as the payment of interest for delayed sanction of other terminal benefits is concerned, Courts have consistently held that retrial benefits should be sanctioned and paid expeditiously as any delay is likely to cause serious hardship to a retired employee during his sunset years. Wherever there was a unexplained delay or irrational conduct of withholding the retiral benefits, Courts have granted interest for such delayed payment vide *State of Kerala & Ors., Vs. M. Padmanabhan Nair* ([1]) and *Dr.Uma Agrawal V.State of U.P. & Anr.,*([2]). The payment of interest for terminal benefits of an employee irrationally withheld by an employer, is in substance, a principle of restitution.

In the circumstances we set aside the order of the Tribunal in O.A.No.417 of 2003 dated 23-02-2004, insofar as it declined the petitioner's claim for payment of interest for delayed payment of his terminal benefits. The respondents are directed to compute, sanction and pay the petitioner interest at the rate of 12% simple per annum on the amount of DCRG, Leave Salary and Commutation amount calculated from the 90th day from the date of the retirement of the petitioner up to the respective dates of payment of each of these amounts. The respondents shall pay the amount of interest so computed to the petitioner within a period of three months from the date of receipt of a copy of this order.

The writ petition is allowed as above. However, there shall be no order as to costs.

(J.CHELAMESWAR,J)

(GODA RAGHURAM,J)

25-08-2004

rkk/Pvks

To

1 The General Manager, South Central Railway, Railnilayam, Secunderabad.
2 Dy. Chief Signal & Telcom Engineer (Project) D.R.M. Compound, Secunderabad Division, S.C. Railway, Secunderabad.
3 The Financial Manager, Secunderabad Divn, D.R.M. Compound, S.C. Railway, Secunderabad.
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